



2026:CGHC:27195

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC No. 5822 of 2026

Sameer Ali S/o Umaruddin Aged About 21 Years R/o Village Bhadar,
P.O. Kamari, P.S. Rajpur, District Balrampur-Ramanujganj Chhattisgarh.

... **Applicant**

versus

State of Chhattisgarh Through Station House Officer, Police Station
Ambikapur, District Surguja Chhattisgarh.

... **Non-Applicant**

For Applicant : Dr. Jitendra Kishor Mehta, Advocate and
Mr. Anand Kumar Kujur, Advocate

For Non-Applicant/State : Mr. Shalin Singh Baghel, Govt. Advocate

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board

02.07.2026

1. This is the **second bail application** filed under Section 483 of the BNSS for grant of regular bail to the applicant who has been arrested in connection with Crime No. 201/2025 registered at Police Station - Ambikapur, District Surguja, (C.G.), for the offence punishable under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985.
2. The earlier bail application of the applicant being MCRC No. 1071 of 2026 was rejected by this Court vide order dated 12.03.2026 on merits.

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3. The case of the prosecution, in brief, is that on 22.03.2025, acting upon secret information received through a reliable informer, the police intercepted an Alto car bearing registration No. CG-15-B-7602, in which the present applicant and co-accused Shivam Singh were travelling. During the course of search, a white coloured bag kept in the dickey (boot) of the said vehicle was recovered. Upon inspection, the bag was found to contain 410 vials of Rexogesic (Buprenorphine) Injection and 110 vials of Avil (Pheniramine Maleate) Injection IP, each allegedly kept for illegal possession and transportation. The said injections were seized from the joint and conscious possession of the applicant and the co-accused in accordance with law. During investigation, it was found that the seized Rexogesic injections contained Buprenorphine, a psychotropic substance covered under the provisions of the NDPS Act. On the basis of the aforesaid seizure and the material collected during investigation, the applicant was arrested in connection with the present crime.
4. Learned counsel for the applicant submits that the present second bail application is maintainable in view of the subsequent and substantial change in circumstances after rejection of the applicant's first bail application by this Hon'ble Court vide order dated 12.03.2026 passed in M.Cr.C. No. 1071/2026. It is contended that after rejection of the earlier bail application, the co-accused, namely Himanshu Dubey, arising out of the same Crime No. 201/2025, has been enlarged on regular bail by the Hon'ble Supreme Court vide judgment and order dated 06.05.2026 passed

in Criminal Appeal No. 2362/2026 arising out of SLP (Criminal) No. 5017/2026, whereby the Hon'ble Supreme Court set aside the order of this Hon'ble Court rejecting his bail. It is, therefore, submitted that the applicant is entitled to the benefit of parity as both the applicant and the co-accused are alleged to have been involved in the same occurrence, arising out of the same FIR, the same transaction and the same investigation. He further submits that during the course of trial, out of 12 prosecution witnesses, only 04 has been examined before the learned Trial Court and have not supported the prosecution case regarding the alleged recovery and have failed to identify the present applicant, thereby materially weakening the prosecution case and constituting a fresh circumstance entitling the applicant to reconsideration of his prayer for bail. It is further submitted that the applicant has remained in judicial custody continuously since 22.03.2025 and has undergone incarceration for more than one year and three months, while the trial is still likely to take considerable time for its conclusion, and, therefore, his continued detention would amount to pre-trial punishment in violation of the guarantee under Article 21 of the Constitution of India. Learned counsel further submits that the investigation has already been completed and the charge-sheet/final report was filed on 14.09.2025, consequently, the applicant is no longer required for any custodial interrogation. Therefore the applicant deserves to be enlarged on bail on the ground of parity.

5. On the other hand, learned State counsel opposes the bail application of the present applicant and submits that no subsequent

change in circumstances has occurred so far as the present applicant is concerned so as to warrant reconsideration of his prayer for bail. It is contended that the applicant cannot claim the benefit of parity with co-accused Himanshu Dubey merely because the Hon'ble Supreme Court has granted bail to the said co-accused vide judgment and order dated 06.05.2026 passed in Criminal Appeal No. 2362/2026 arising out of SLP (Criminal) No. 5017/2026 as the case of the present applicant stands on a different footing inasmuch as no contraband was recovered from the possession of the said co-accused, whereas the psychotropic substance was recovered from the joint and conscious possession of the present applicant and the co-accused from the Alto car in which they were travelling. It is further submitted that the quantity of Buprenorphine allegedly recovered is above the notified commercial quantity under the provisions of the NDPS Act and, therefore, the rigours of Section 37 of the NDPS Act are fully attracted. He further submits that the investigation has revealed sufficient prima facie material connecting the applicant with the commission of the alleged offence and the evidence collected during investigation cannot be discarded merely because some prosecution witnesses have not supported the prosecution case during trial, as their testimony is yet to be appreciated along with the entire evidence at the stage of final adjudication. Considering the gravity of the offence, the recovery of commercial quantity of psychotropic substance from the joint possession of the applicant, the statutory embargo contained under Section 37 of the NDPS Act, and the prima facie material available

on record, he prays that the applicant is not entitled to be released on second bail application.

6. I have heard learned counsel appearing for the parties and perused the case diary.
7. From the perusal of the record, it transpires that this is the second bail application preferred by the applicant, the first bail application was rejected on merits by this Court vide order dated 12.03.2026 passed in M.Cr.C. No. 1071/2026. The only subsequent circumstance relied upon by the applicant is the order dated 06.05.2026 passed by the Hon'ble Supreme Court granting bail to co-accused Himanshu Dubey. However, the applicant cannot claim parity with the said co-accused, as the case of the present applicant stands on a different footing. The record reveals that no recovery of any contraband was effected from the possession of co-accused Himanshu Dubey, whereas 410 vials of Rexogesic (Buprenorphine) Injection along with 110 vials of Avil Injection were recovered from the joint and conscious possession of the present applicant and the co-accused from the Alto car in which they were travelling. Prima facie, the recovered Buprenorphine is above the commercial quantity, thereby attracting the rigours of Section 37 of the NDPS Act. The contentions raised by the applicant regarding the actual psychotropic content of the seized injections and the testimony of the prosecution witnesses are matters requiring appreciation of evidence during trial and cannot be adjudicated at this stage. In view of the recovery effected from the possession of the present

applicant, the prima facie material available on record, the applicability of the embargo contained under Section 37 of the NDPS Act, and the fact that the case of the co-accused who has been granted bail by the Hon'ble Supreme Court is clearly distinguishable, this Court is of the considered opinion that no substantial change in circumstances has been made out after dismissal of the first bail application on merits so as to warrant a different view. Hence, this Court is of the opinion that it is not a fit case to enlarge the applicant on second regular bail.

8. Accordingly, the second bail application of the applicant – **Sameer Ali**, involved in Crime No. 201/2025 registered at Police Station - Ambikapur, District Surguja, (C.G.), for the offence punishable under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985, is **rejected**.
9. Needless to say that the trial Court concerned is at liberty to proceed and conclude the trial expeditiously.
10. Office is directed to send a certified copy of this order to the trial Court concerned for necessary information and compliance forthwith.

Sd/-

(Ramesh Sinha)
Chief Justice

Rahul Dewangan